

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant/Respondent,)

WCC FILE NO. 0902416

-vs-

Owen Steel Company,)
Employer,)

APPELLATE PANEL
DECISION AND ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants/Appellants.)

DATE OF REVIEW HEARING: Hearing held and oral arguments presented in Columbia, S.C. on February 20, 2013

APPEARANCES: Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, LLC. Employer & Carrier represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C.

DECISION AND ORDER: by Commissioners Susan S. Barden, Melody L. James, and Avery B. Wilkerson, Jr.

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SC Court of Appeals

STATEMENT OF THE CASE

This appeal by the Defendants arises out of a **Rule to Show Cause** hearing held before Commissioner Scott Beck on August 23, 2012. The hearing was set pursuant to a **Motion for Order and Rule to Show Cause** filed by the Claimant, John Hart, on April 16, 2012.

This is an admitted case in which the Claimant, John Hart, sustained an injury by accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw and a neurologist.

Commissioner Beck previously issued two Decision and Orders in this case. The first Order was filed on September 1, 2010 following a Form 50 hearing held on July 28, 2010. It included provisions stating:

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

As Defendants failed to comply with the mileage provision, Claimant filed a Motion for Rule and Order to Show Cause on October 14, 2010, seeking relief under § 42-3-150 and § 42-3-175. A hearing was held on November 19, 2010. A Decision and Order was filed on January 4,

2011. The Order stated:

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,000.00 to Samuels Law Firm, LLC, for attorney's fees;

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$137.70 to Claimant;

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.

On April 16, 2012, Claimant filed a second Motion for Rule and Order to Show Cause.

Claimant made the following prayer for relief:

THEREFORE, Claimant request Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission; to be ordered to provide a treating neurologist, neuropsychologist, psychiatrist and oral surgeon of Claimant's choosing; to be reported to the Department of Insurance; and further to pay to Claimant an appropriate amount for attorney's fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

A hearing was originally set on the Motion for May 30, 2012. Before the actual hearing, the attorneys reached an agreement on the issues -- which was confirmed by e-mail. The parties advised Commissioner Beck that a Consent Order would be forthcoming and the case was removed from the docket. The parties were unable to finalize the agreement so, on the request of Claimant, the case was restored to the hearing roster. The hearing was held on August 23, 2012.

The hearing was not transcribed. Commissioner Beck heard arguments from counsel and reviewed documentary evidence submitted by Claimant. At the hearing, counsel for Defendants

stated his client consented to Dr. Berger and Dr. Rogers as the treating dentist and neurologist, and had authorized all treatment ordered by these doctors. Counsel further stated Defendants had agreed to a psychological and psychiatric evaluation by Post Trauma Resources, but had not yet consented to treatment as the psychological claim had not been accepted nor previously ordered.

Among the documents presented was an e-mail dated June 3, 2011, from the claims adjuster, Tara Potter, stating in pertinent part, "Mileage is excessive and I do not intent [sic] to cover it." [Exhibit page 66]. Counsel for Defendants admitted the denied mileage was for a trip to the pharmacy to fill a prescription written by an authorized treating physician.

The Single Commissioner issued the Order on October 10, 2012. He found Defendants were in contempt under § 42-3-150 and had violated § 42-3-175. Defendants were ordered to pay a \$4,380.00 penalty to the Commission; to pay attorney's fees to Claimant's Counsel in the amount of \$1,500.00; to reimburse Claimant \$1,190.00 for the cost of the initial evaluation by Dr. Berger; and to pay mileage in the amount of \$227.76. Defendants were further ordered to provide certain medical treatment and evaluations.

Defendants timely filed a Form 30 (Request for Commission Review). Following presentation of briefs by the parties, the Appellate Panel of the Workers' Compensation Commission heard oral arguments on December 14, 2010.

At oral argument, Defense Counsel advised the Appellate Panel that his client was abandoning the appeal on all issues except for the amount of attorney's fees (Issues 6, 7, and 12). The appeal went forward on those issues.

Immediately after the argument concluded, the Appellate Panel instructed Claimant's Counsel to submit an affidavit supporting "Claimant's attorney's fees and costs of enforcing the

order.” S.C. Code Ann. § 42-3-175 (2007). Defendants objected to the affidavit on the grounds that the affidavit supported a claim for \$6,407.50 in attorney’s fees and costs, versus the \$1,500.00 ordered by the Single Commissioner. The affidavit was accepted and is part of the record in the case. 25A S.C. Code Ann. Reg. 67-707 A (2007).

ISSUES ON APPEAL

Defendants’ Form 30 (Request for Commission Review) sets forth the following grounds:

1. Did the Single Commissioner err in finding as a matter of fact that the Defendants failed to comply with the specific provisions of the September 1, 2010 Order to promptly and without delay reimburse the Claimant for travel expenses at the current statutory milcage rate for medical treatment to and from his home in Georgia to authorized medical providers?

2. Did the Single Commissioner err in concluding as a matter of fact that the Defendants, based on the June 3, 2011 email from Tara Potter, willfully refused to pay \$227.76 in milcage for a trip to the pharmacy on April 29, 2011?

3. Did the Single Commissioner err in finding as a matter of fact that there are also two documented instances on December 20, 2011 and June 6, 2012 where milcage was ultimately paid, but not paid within 14 days?

4. Did the Single Commissioner err in finding as a matter of fact that by clear and convincing evidence the refusal to comply with the previous Order was willful and contumacious?

5. Did the Single Commissioner err in finding as a matter of fact that that, as Defendants conduct was willful and contumacious that there was clear and convincing evidence for Defendants to be held in contempt pursuant to Section 42-3-150 and to impose sanctions

under Section 42-3-175?

6. Did the Single Commissioner err in finding as a matter of fact that Defendants shall pay the Claimant's attorney's fees in the amount of \$1,500.00 pursuant to Section 42-3-175?

7. Did the Single Commissioner err in finding as a matter of fact that the Claimant's attorney's representation of the amount of time he and his staff spent on enforcing this Order to be accurate and reasonable, that the Claimant's attorney's efforts were amply documented by the emails and letters submitted to the Commission, and that the Commission has the explicit authority to Order a Defendant to pay the Claimant's attorney's fees and costs of enforcing the Order?

8. Did the Single Commissioner err in finding as a matter of fact that the Defendants were ordered to pay a penalty, at a rate of \$10.00 per day for 438 days for non-compliance with the previous Order, and that the 438 days is based on the date of the email from the claims adjuster, with the total amount of the fine being \$4,380.00 payable to the Commission pursuant to Section 42-3-175?

9. Did the Single Commissioner err in finding as a matter of fact that that this amount is a reasonable penalty under the Statute in light of the Statute's purpose of compelling Employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's Orders?

10. Did the Single Commissioner err in finding as a matter of fact that, in assessing the penalty, due consideration was also given to the delays in filling prescriptions and provided dental and neurological treatment?

11. Did the Single Commissioner err in finding as a matter of fact that the Defendants

are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the attorney a written reimbursement request submitted by the Claimant, and any failure to make payment within a 14 day time period will be deemed to be willful and contumacious, subjecting Defendants to further sanctions under Section 42-3-150 and Section 42-3-175?

12. Did the Single Commissioner err in concluding as a matter of law that the award of \$1,500.00 in attorney's fees is reasonable in light of the demonstrated time spent and efforts made by the Claimant's attorney to enforce the Order?

Following review and consideration by the Appellate Panel of the evidence and testimony in the case, the briefs submitted by the parties, and oral arguments espousing the parties' respective positions on the issues on appeal, the Appellate Panel finds a FULL AFFIRMATION of the Decision and Order of Commissioner T. Scott Beck.

FINDINGS OF FACT

Pursuant to S.C. Code Ann. § 42-17-50 (2007), the Appellate Panel has examined and weighed the evidence in the record, along with the stipulated facts and arguments of counsel. Upon so doing, the Panel makes the following findings of fact:

1. Dr. Berger is designated as the authorized treating physician to provide all dental care to Claimant. Defendants agree to reimburse Claimant for the cost of Dr. Berger's initial evaluation.

2. Dr. Rogers is designated as the authorized treating physician to provide neurological care to Claimant.

3. Defendants agree to provide an evaluation for psychological and psychiatric injury through Post Trauma Resources.

4. Defendants failed to comply with the specific provisions of the September 1, 2010 order to “promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.” Defendants, based on the June 3, 2011 e-mail from Tara Potter, willfully refused to pay \$227.76 mileage for a trip to the pharmacy on April 29, 2011. There are also two documented instances on December 20, 2011 and June 6, 2012, where mileage was ultimately paid, but not paid within 14 days.

5. We find by clear and convincing evidence that the refusal to comply with the previous Orders was wilful and contumacious.

6. As Defendants’ conduct was wilful and contumacious, we find clear and convincing evidence for Defendants to be held in contempt under § 42-3-150 and to impose sanctions under § 42-3-175.

7. Defendants shall pay the Claimant’s attorney’s fees in the amount of \$1,500.00, pursuant to § 42-3-175. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

8. On the instructions of the Appellate Panel, Claimant submitted an affidavit substantiating the attorney’s fees and costs of enforcing Commissioner Beck’s previous order. The affidavit was received pursuant to the Commission’s discretion to receive additional evidence when such evidence is necessary for the completion of the record in a case on review. 25A S.C. Code Ann. Reg. 67-707 A (2007).

9. Claimant submitted an affidavit documenting 19.0 hours of attorney time at \$300.00 per hour and 9.1 hours of paralegal time at \$75.00 per hour, along with costs of \$25.00 for the filing fee. The total of attorney's fees and costs involved in enforcing the Order is \$6,407.50. This affidavit is made part of the record in this case.

10. "Our case law and court rules make clear that when a contract or statute authorizes an award of attorney's fees, the trial court must make specific findings of fact on the record for each of the required factors to be considered." Griffith v. Griffith, 332 S.C. 630, 646, 506 S.E.2d 526, 534-35 (Ct.App. 1998). The factors we should consider in determining reasonable attorney's fees are:

- (1) nature, extent, and difficulty of the legal services rendered;
- (2) time and labor devoted to the case;
- (3) professional standing of counsel;
- (4) contingency of compensation;
- (5) fee customarily charged in the locality for similar services; and
- (6) beneficial results obtained.

Blumberg v. Nealco, Inc., 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993). "[A]bsent sufficient evidentiary support on the record for each factor, the award should be reversed and the issue remanded for the trial court to make specific findings of fact." Id. at 494, 427 S.E.2d at 661.

We find sufficient evidentiary support to award the attorney's fees and costs claimed in this case. As the nature, extent and difficulty of the legal services rendered, we find the need to conduct discovery to obtain written proof of Defendants' contumacy along with filing the motion and arguing the case are specific skills requiring the services of an attorney. We note "in the best tradition of the profession, he attempted to settle this matter with" opposing counsel before actually taking the case to a hearing. Williamson v. Middleton, 649 S.E.2d 57, 374 S.C. 419 (Ct. App. 2007), *reversed on other grounds*, 383 S.C. 490, 681 S.E.2d 867 (2009). The time and

labor involved are amply documented by the affidavit of counsel. Claimant's counsel is well-known to the Commission as an attorney experienced and well-versed in the workers' compensation arena. Regarding the contingency of the compensation, we find the legislature was fully aware that claimant's attorneys in workers' compensation cases are almost universally paid under contingency fee agreements. See 25A S.C. Code Ann. Reg. 67-1205 (2007). In enacting § 42-3-175, the legislature was aware that the beneficial results obtained were not likely to result in additional monetary compensation. We find § 42-3-175 was designed to reimburse claimant's attorneys for their time and expenses on an hourly basis reflecting the actual attorney's fees and costs involved in enforcing the Order. In this case, we find the fact that compensation was contingent in prevailing at the hearing supports an award of attorney's fees. Regarding the fee customarily charged, we find \$300.00 an hour for an attorney and \$75.00 per hour for a paralegal is a reasonable and customary rate for an attorney with 14 years of experience practicing before the Commission. Finally, we find counsel obtained beneficial results for his client.

11. Claimant did not appeal the amount of attorney's fees awarded by the Single Commissioner; only Defendants appealed. Claimant may not benefit from Defendants' appeal. We therefore find the \$1,500.00 attorney's fee award is the law of the case as to Claimant. See Floyd v. Floyd, 615 S.E.2d 465, 365 S.C. 56 (Ct. App. 2005)(law of the case rule applied where party failed to challenge amount of attorney's fees awarded). The Appellate Panel lacks authority to reverse an unappealed finding of a Single Commissioner. We therefore affirm the finding that Defendants are to pay \$1,500 in attorney's fees.

12. Defendants are ordered to pay a penalty, at the rate of \$10.00 per day for 438 days, for non-compliance with the previous Order. The 438 days is based on the date of the c-

mail from the claims adjuster. The total amount of the fine is \$4,380.00 payable to the Commission under § 42-3-175. This amount is a reasonable penalty under the statute in light of the statute's purpose of compelling employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's orders. In assessing the penalty, due consideration was also given to the delays in filling prescriptions and providing dental and neurological treatment.

13. Defendants are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

14. No hearing costs are assessed.

CONCLUSIONS OF LAW

Pursuant to S.C. Code Ann. § 42-17-50 (2007), the Appellate Panel has examined and weighed the evidence in the record, along with the stipulated facts, arguments of counsel and relevant legal authorities. Upon so doing, the Panel makes the following Conclusions of Law:

1. Orders of the Commission are binding and enforceable on those who come before it in the same manner and to the same extent as orders of our courts. In establishing the Commission, the legislature created a quasi-judicial agency with the authority to adjudicate contested claims and issue orders within its area of jurisdiction. See S.C. Code Ann. § 42-1-540 (1974); Sabb v. South Carolina State University, 350 S.C. 416, 567 S.E.2d 231 (2002) ("The phrase 'shall exclude all other rights and remedies' in the exclusivity provision demonstrates plain and unambiguous legislative intent to vest the Workers' Compensation Commission with

exclusive original jurisdiction over an employee's claims"). If the Commission did not have the power to enforce its orders, then the Commission's orders would be nullities *ab initio*. "The power to punish for contempt is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice." Curlee v. Howle, 277 S.C. 377, 382, 287 S.E.2d 915, 917 (1982). As succinctly stated by the Rhode Island Supreme Court:

Without the authority to cite and punish for contempt of its decrees and orders the commission would be virtually powerless to enforce them. To hold that the legislature, in transferring jurisdiction of workmen's compensation cases from the superior court, intended that the commission it created for that purpose would establish a forum not fully effective is repugnant to reason and wholly untenable. Segrella v. Workmen's Compensation Commission, 162 A.2d 810 (R.I. 1960).

See also, Kennedy v. Kenney Mfg. Co., 519 A.2d 585 (R.I. 1987)(workers' compensation commissioner possesses certain judicial powers not specifically conferred by statute including the power to hold persons in criminal contempt); Hudock v. Industrial Com'n of Virginia, 340 S.E.2d 168 (Va. App. 1986)("Commission, as quasi-judicial body within the area of its jurisdiction, has the power of contempt over those in disobedience of its lawful orders").

2. The Commission's explicit authority to enforce its Orders is set forth in two statutes: § 42-3-150 and § 42-3-175.

The Commission's contempt power is set forth in § 42-3-150. Under the title "Manner in which attendance of witnesses and production of books and papers may be compelled", the statute provides, in pertinent part, the following:

In case of contumacy by any person or refusal to obey a subpoena issued to any person, the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of

the Commission may be punished as a contempt thereof.

Any person who shall without just cause fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the Commission, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty nor more than two hundred dollars or by a term of imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense. Subpoenas shall be issued in the name of the Commission and shall be signed by a commissioner. Subpoenas shall be issued to such persons as the Commission may designate.

In addition, the Commission may punish for contempt in the manner authorized by this section any person whose disorderly conduct in any Commission proceeding interferes with the orderly process of such proceeding.
S.C. Code Ann. § 42-3-150 (1980).

Supplemental to the contempt power, the legislature passed § 42-3-175 which grants the Commission explicit authority to direct a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

§ 42-3-175 further directs the Commission to determine if the failure to comply with an Order authorizing medical treatment and/or payment of benefits is wilful disobedience. In such a case, the commission may impose sanctions “including, but not limited to, a fine of up to five hundred dollars for each day of the violation.” The Commission “must notify the Department of Insurance of an insurer’s or an adjuster’s failure to authorize and pay benefits for medical treatment.”

3. The award of \$1,500 attorney’s fees is affirmed. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the

order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007). See Martin v. Rapid Plumbing, 631 S.E.2d 547, 369 S.C. 278 (Ct. App. 2006)(appellate panel does not have discretion to limit the amount of a mandatory penalty).

4. “Our case law and court rules make clear that when a contract or statute authorizes an award of attorney’s fees, the trial court must make specific findings of fact on the record for each of the required factors to be considered.” Griffith v. Griffith, 332 S.C. 630, 646, 506 S.E.2d 526, 534-35 (Ct.App. 1998) . The factors we should consider in determining reasonable attorney’s fees are:

- (1) nature, extent, and difficulty of the legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained.

Blumberg v. Nealco, Inc., 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

5. As to Claimant, the \$1,500.00 attorney’s fee award is the law of the case. See Floyd v. Floyd, 615 S.E.2d 465, 365 S.C. 56 (Ct. App. 2005)(law of the case rule applied where party failed to challenge amount of attorney’s fees awarded).

6. The statutory fines and penalties exist to ensure that the workers’ compensation system effectively fills its role of providing compensation to injured workers and their dependents so they do not become charges on society. The fines and penalties are designed to promote proper claim and benefit handling by employers and their representatives so that the system will be more efficient and injured workers will not suffer due to delays in payment of compensation and medical treatment.

AWARD

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$4,380.00 to the South Carolina Workers' Compensation Commission as a statutory fine for wilful disobedience of an order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,500.00 to Samuels Law Firm, L.L.C., for attorney's fees for enforcing an order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall pay \$227.76 to Claimant within fourteen days of the hearing before the Single Commissioner;

IT IS FURTHER ORDERED that Commissioner Beck will retain jurisdiction with respect to any further proceedings involving penalties, sanctions, contempt and enforcement of any previous Orders in this case;

IT IS FURTHER ORDERED that Dr. Robert F. Berger, D.D.S. and Berger Dental Group, P.A., are designated as the authorized treating physicians for the provision of dental treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred. Defendants shall reimburse Claimant \$1,190.00 for the cost of the initial evaluation.

IT IS FURTHER ORDERED that Dr. David Rogers is designated as the authorized

treating physicians for the provision of neurological treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that Defendants shall provide a psychological and psychiatric evaluation with Post Trauma Resources. Should the doctors at Post Trauma Resources recommend treatment and should Defendants accept that recommendation, Post Trauma Resources shall be designated as the authorized treating physicians for the provision of psychological and psychiatric treatment. However, as a determination of whether Claimant has suffered a compensable psychological injury goes to the merits, ordering treatment is beyond the scope of this proceeding.


IT IS FURTHER ORDERED that in the event any of the above providers is unable or unwilling to act as Claimant's treating physician, that the parties shall agree upon an authorized treating physician, and if the parties are unable to agree, Commissioner Beck, or in his absence the jurisdictional Commissioner, will designate the authorized treating physician.

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further

sanctions under § 42-3-150 and § 42-3-175.

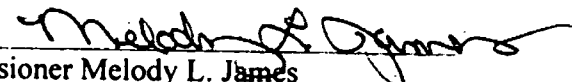
AND IT IS SO ORDERED.

Dated: 4-16-13

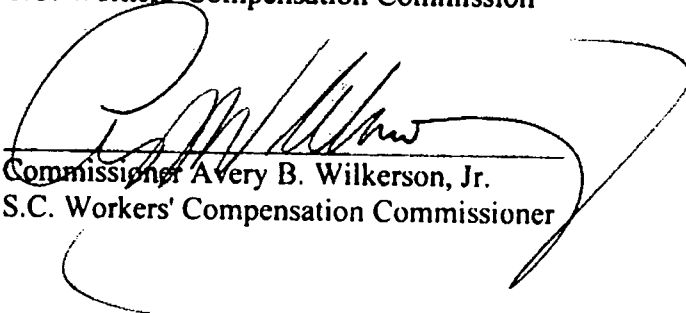


Commissioner Susan S. Barden
S.C. Workers' Compensation Commission

CONCURRING:



Commissioner Melody L. James
S.C. Workers' Compensation Commission



Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

By Valerie Deller on April 16, 2013